

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL APPLICATION NO.2321 OF 1995

AND

CIVIL APPLICATION NO.2323 OF 1995

In

LETTERS PATENT APPEAL No 928 of 1995

in

SPECIAL CIVIL APPLICATION No 1193 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA and
MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No

STATE OF GUJARAT

Versus

NATHUBHAI MAVJIBHAI SINCE DECEASED THROUGH HEIR & L.R.

Appearance:

Mr.K.C.Shah, learned A.G.P. for applicants
MR YATIN SONI for Respondent No. 1

CORAM : MR.JUSTICE M.R.CALLA and
MR.JUSTICE J.R.VORA

Date of decision: 15/07/98

ORAL JUDGEMENT

The matter comes up on the Civil Application seeking condonation of delay for a period of 259 days. The contents of Para Nos.2 and 3 of this Application show that the impugned judgment was rendered on 24.2.94. Certified copy was applied for on 8.3.94 and the same was made ready by the Registry on 5.5.94. Thereafter, as usual, there has been negligence through-out in processing and in taking the decision to file the Letters Patent Appeal, which is described by the learned A.G.P. as procedural delay. It appears from the contents of the Application that the papers were forwarded to the office of the Government Pleader for the purpose of filing Letters Patent Appeal in November, 1994 and the Law Department had given opinion for filing the Appeal in December 1994. However, the Letters Patent Appeal was filed on 6.2.95 and there is no explanation whatsoever for the period beyond 17.1.95 and as to why the Application seeking condonation of delay was not filed alongwith the Letters Patent Appeal, which was hopelessly time barred on 6.2.95. The Application seeking condonation of delay had been filed much later i.e. on 27.9.95.

It has also been pointed out by Mr.Soni, who has appeared in response to the Rule of this Application issued by this Court, that identical matters have already been rejected and in those matters the delay has not been condoned.

We are fully satisfied that it is a case of callous negligence and inaction in the name of procedural delay and it cannot be said in the facts of this case that the applicants were prevented by any reasonable and sufficient cause from filing the Letters Patent Appeal within time. This Application seeking condonation of delay is, therefore, rejected. Rule is hereby discharged with no order as to costs.

Whereas the Letters Patent Appeal is hopelessly time barred by 259 days and the Application for condonation of delay has been rejected, the Letters Patent Appeal cannot be entertained and the same stands dismissed as time barred.

In this view of the matter, there is no question of passing any order in Civil Application No.2323 of 1995 with regard to stay and the same stands disposed of.

